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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-1062]

RIN 1625-AA09

Drawbridge Operation Regulation; Bear Creek, Dundalk, MD

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rule concerning the proposed change to regulations governing the operation of the Baltimore County highway bridge at Wise Avenue across Bear Creek, mile 3.4, between Dundalk and Sparrows Point, MD. The proposed change would have altered the current four hour advance notice requirement for a bridge opening to a 48-hour advance notice for a bridge opening.

DATES: The notice of proposed rulemaking is withdrawn on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of

Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2011-1062 in the "Search" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, telephone 757-271-1016, e-mail Bill.H.Brazier@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2012, we published a Notice of Proposed Rulemaking entitled "Drawbridge Operation Regulation; Bear Creek, Dundalk, MD" in the Federal Register (77 FR 5201). The rulemaking concerned would alter the current four hour advance notice requirement for a bridge opening, found in 33 CFR 117.543(b), to a 48-hour advance notice.

Baltimore County requested to reduce the necessity for bridge openings based on bridge logs provided over a two year period. However, prior to the publication of the

notice of proposed rulemaking the bridge owner displayed on the Wise Avenue Bridge signage that stated a 48-hour advance notice was required to open the draw bridge. This signage portrayed improper operational information since the current operation regulation had not changed. The Coast Guard determined the signage that stated a 48-hour advance notice was required for a bridge opening was misleading to the public and navigational users.

Withdrawal

Baltimore County, responsible for the operation of the Wise Avenue Bridge, had requested advance notification of vessel openings. Following publication of the notice of proposed rulemaking, the Coast Guard received two comments opposing changes to the regulation. Both comments felt the 48-hour advance notice was unnecessary and too burdensome to the waterway users. One of the comments stated signage had been placed on the bridge providing information misleading to the public. Baltimore County admitted establishing signage on the bridge prior to the publication of the notice of proposed rulemaking citing the bridge would open with a 48-hour notice prior to approval from the regulatory process. The second comment stated that a 24-hour advance notice would be better than the proposed 48 hours. Due to the bridge owner displaying misleading and

inaccurate signage during a public comment period and prior to any change in the bridge opening regulations, the Coast Guard is withdrawing the proposed rule. The owner may, however, request a new notice of proposed rulemaking for a future period in which the inaccurate signage is not posted.

Authority

We issue this notice of withdrawal under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

Dated: DEC 4 2012

STEVEN H. RATTI
Rear Admiral, U.S. Coast Guard
Commander, Fifth Coast Guard District

[FR Doc. 2012-30001 Filed 12/11/2012 at 8:45 am;
Publication Date: 12/12/2012]